

NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

January 28, 2005

The Nebraska Commission on Law Enforcement and Criminal Justice met Friday, January 28, 2005, at 9:30 a.m., in Lower Level Conference Room A of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Legal notice of the meeting was published January 17, 2005 in the Lincoln Journal Star.

CALL TO ORDER

The meeting was called to order at 9:40 a.m. by Vice-Chair Gary Lacey. The following members were **in attendance**: Scot Arnold, John Becker, Charles Brewster, Bill Brueggemann, Harold Clarke, Scott Ford, Susan Jacobs, Gary Lacey, Paul Leseberg, Kathy Moore arrived at 9:50 a.m., Tom Nesbitt, Don Overman, James Riskowski arrived at 10:05 a.m., and Thomas Warren. **Members excused**: Jon Bruning, Peter Pirsch, and William White. **Staff present**: Allen Curtis, Steve Lamken, Nancy Steeves, Michael Overton, Linda Krutz, Julies Rogers, Bruce Ayers and Barbara McCreight. **Also present**: Charles Lowe, Assistant Attorney General.

Lacey stated a retirement party for Allen Curtis would be held following the meeting from 2:00 - 4:30 p.m. in the Department of Roads auditorium. He noted the Commission's admiration and appreciation of Allen's term as executive director. He noted the accomplishments during Allen's tenure and congratulated him on his retirement.

Harold Clarke stated Curtis had done wonders for the Commission and was a friend and supporter of criminal justice agencies. He presented Curtis, on behalf of the Department of Corrections, with a certificate and travel clock in thanks for his years of service.

Thomas Warren presented Curtis with an award noting the Omaha Police Department had a good working relationship with Curtis and viewed him as a friend of the department.

Don Overman presented Curtis with a pin making him an honorary citizen of the City of Scottsbluff in appreciation for his great work for law enforcement across the state.

Presentation to Harold Clarke

Curtis announced that Harold Clarke will be leaving his position as director of the Department of Corrections and will be going to a similar position in Washington. Curtis presented Clarke with a plaque in appreciation for his years of service to the Commission. He noted the Commission will miss Clarke's leadership.

APPROVAL OF MINUTES

Motion

A motion was made by Overman and seconded by Ford to approve the minutes of the Crime Commission meeting of October 29, 2004; Criminal Justice Information Services meeting of December 2, 2004; Racial Profiling Advisory Committee meeting of October 14, 2004; Nebraska Coalition for Juvenile Justice meeting of December 17, 2004; and Police Standards Advisory Council meetings of November 17 and December 15, 2004. The motion passed unanimously by acclamation.

The minutes of the Jail Standards Board meeting of October 15, 2004 and Community Corrections Council meeting of October 13, 2004 were provided for the member's review.

III. EXECUTIVE DIRECTOR'S REPORT

The Executive Director's report was presented by Allen Curtis:

- Michael Overton was appointed by Governor Heineman to serve as Acting Director of the Crime Commission until a permanent appointment is made. The Governor's Office has indicated that they will not be making an appointment for several months.
- Two volunteers were sought to serve on the Grant Review Committee. The committee meets two times a year to review grant applications and makes funding recommendations to the Commission.
- Barbara McCreight has taken the position of Federal Aid Administrator.

- New expense reimbursement forms were available which include an increased allowance for gasoline and lodging.
- The CJIS Technology Conference will be held February 16-17th at the Sandhills Convention Center in North Platte. Members were invited to attend.
- The Hauser case is scheduled to be heard by the Nebraska Supreme Court on February 4, 2005.
- The Commission's website has been updated. It is anticipated that the Commission's annual report will be generated on the web.

Kathy Moore arrived at the meeting at 9:50 a.m.

- Members were provided a handout of legislative bills that will be considered this legislative session which impact criminal justice agencies.
- Curtis presented a final report on the State of the Commission. The report discussed the major accomplishments, failures, needs and suggestions for future action. Curtis hoped the summary report would assist in the transition of a new executive director.

Under the heading Future Needs and Projects, Curtis highlighted the following points:

1. Basic CJIS services should be supported by general funds.
2. With the loss of grant programs on the federal level, the state will lose money and will need to determine who will be eligible for grant funds. Curtis noted the need to bring people together to develop a strategy for use of grant funds to address problems and priorities.
3. The Training Center needs to have a revolving budget to support the equipment needs of the facility.
4. A bill introduced to provide a surcharge on court cases to support VINE, the CVR program and the victim coalitions did not receive a favorable response at its hearing. The CVR Committee has changed the types of cases it will consider to address the loss of revenue. However, Curtis recommended that if the Governor and Legislature do not support funding of the program, the program will be ineffective and should be dropped. He noted without adequate funding, victims who are expecting financial assistance are victimized again when funds are not available

- Curtis expressed his appreciation to the Commission and staff for their support and assistance in his years of service.

NEW BUSINESS

Law Enforcement Training Center

Revocation of Law Enforcement Certification - Roddy Schoenrock, #LR-032-04, Fairbury, Nebraska

The Commission next considered a request to revoke the law enforcement certification of Roddy Schoenrock, #LR-032-04, of Fairbury, Nebraska. Lacey noted the Police Standards Advisory Council acted as the hearing board for this complaint.

Charlie Lowe, Assistant Attorney General, presented the hearing board's findings regarding the decertification complaint.

Lowe noted the revocation complaint involved Roddy Schoenrock who was a deputy sheriff for the Jefferson County Sheriff's Office and formerly served at the Gage County Sheriff's Office. A summary of the matter was reviewed by Lowe.

Lowe presented the entire record on the Roddy Schoenrock case prepared by the Police Standards Advisory Council and kept at the Law Enforcement Training Center. It contained all the exhibits that were offered and the findings of fact and conclusions of law and recommendation of the Council. The file included exhibits #1 - 6. The file was marked as exhibit #7 and presented to the chair.

James Riskowski arrived at the meeting at 10:05 a.m.

Lowe presented the following background on the case:

- T Mr. Roddy Schoenrock worked as a deputy sheriff starting in the year 2000 with the Jefferson County Sheriff's Department and then in 2003 with the Thayer County Sheriff's Office.
- T At sometime in there, attention was brought to the authorities that Schoenrock may have falsified information that was contained in his application for admission to the Nebraska Law Enforcement Training Center (NLETC). Specifically, that he may have falsified a high school diploma to show that he graduated from high school when in fact he did not. An investigation was conducted of this through an investigator of the Attorney General's Office and some other investigatory matters were done.
- T Another matter that came to light was that Schoenrock, in the course in his application for admission to the NLETC, checked that he agreed with the statement ,

"I have not been involved in or charged with any activity of physical violence, sexual abuse, or crime against children." During the course of the investigation, allegations came forward that he in fact had been involved, over a period of time, with his step-daughter who was a minor at the time.

- T When Schoenrock was confronted with these allegations in the informal notification, he basically asked to simply resign his certification. He quit the Sheriff's Department of Thayer County in April of 2004 of this year. Ultimately, he submitted to the Council a voluntary revocation which basically contained his admission to quote, *"On April 24, 2000, I inserted false proof of eligibility for law enforcement certification to the NE Law Enforcement Training Center."* He admitted this was a violation of law which could subject him to discipline and revocation of his license and certificate.

Lowe noted apparently the concern was that there are no specific procedures for the Commission to accept voluntary decertifications. Therefore, the Commission had to go through the formal process for the revocation.

- T Mr. Schoenrock was provided notice of the Police Standards Advisory Council (PSAC) hearing that was held. He did not attend that hearing, in fact specifically waived notice of attendance at the hearing. The evidence was presented which is included in exhibit #7 and includes the voluntary surrender.
- T Lowe reported the Council concluded that Schoenrock had engaged in the falsification. It appeared he took, together with a friend, a diploma from an earlier year and converted it to the one in which he would have graduated. The trouble was, the principal wasn't the same principal, which made it difficult. The other sexual abuse charges were based on the investigator's interviews with the women and his ex-wife.
- T The PSAC hearing was scheduled for October 20, 2004 but was subsequently moved to November 17, 2004 due to a scheduling conflict. Schoenrock waived the hearing and stated he wanted to basically plea no contest to all the charges.
- T The PSAC findings are that Schoenrock engaged in misconduct and that he should have his certification revoked.

Lacey stated exhibit #7 (PSAC's file on the matter of Roddy Schoenrock, #LR-032-04, Fairbury, Nebraska) was identified and will be marked and accepted by the Commission. No objections were noted and the item was accepted into evidence by Vice-Chairman Lacey.

Motion

A motion was made by Brueggemann and seconded by Brewster to revoke the law enforcement certification of Roddy Schoenrock, (#LR-032-04) Fairbury, Nebraska upon a

finding of clear and convincing evidence submitted by the Hearing Board. Voting in favor of the motion: Arnold, Becker, Brewster, Brueggemann, Clarke, Ford, Jacobs, Leseberg, Moore, Nesbitt, Overman, Riskowski, and Warren. Motion carried unanimously.

Instructor Certification

Becker reviewed the Police Standards Advisory Council's recommendations for instructor certification.

Motion

A motion was made by Arnold and seconded by Warren to grant the following instructor certifications per Police Standards Advisory Council's recommendations: Professional Instructor Certification to Timothy Abele, Lincoln Police Department; Shane J. Alesch, Lincoln Police Department; Chad Bryant, NE Law Enforcement Training Center; Jeffrey Crouch, Omaha Police Department; Kathleen M. Flood, Lincoln Police Department; Russell L. Fosler, Lincoln Police Department; Todd A. Groves, Lincoln Police Department; DeAnna L. Hager, Lincoln Police Department; Timothy J. Kennett, Lincoln Police Department; Todd A. Kocian, Lincoln Police Department; Mark Kula, NE Law Enforcement Training Center; Julia J. Mayer, Lincoln Police Department; Michael E. Siefkes, Lincoln Police Department; Kurt R. Sorys, Omaha Police Department; Matthew Tangen, Lincoln Police Department; Kimberly Telley, Omaha Police Department; Joseph W. Wright, Lincoln Police Department; Professional Recertification to Mary Schindler, Omaha Police Department; and David Thome, NE Law Enforcement Training Center; and General Instructor Certification to Jeffrey Hillabrand, Lincoln Police Department. Voting in favor of the motion: Arnold, Becker, Brewster, Brueggemann, Clarke, Ford, Jacobs, Leseberg, Moore, Nesbitt, Overman, Riskowski, and Warren. Motion carried unanimously.

2004 Sheriffs' Continuing Education Report and Wavier Request of Sheriff Mark Bottom, Perkins County

Becker reported the Police Standards Advisory Council found that all sheriffs had met their 20 hour 2004 continuing education requirement with the exception of Sheriff Mark Bottom, Perkins County. PSAC recommended granting a waiver to Sheriff Mark Bottom who is currently serving with the military in Iraq.

Motion

A motion was made by Overman and seconded by Brewster to adopt PSAC's recommendation to grant a 20-hour continuing education waiver to Sheriff Mark Bottom, Perkins County. Voting in favor of the motion: Arnold, Becker, Brewster, Brueggemann, Clarke, Ford, Jacobs, Leseberg, Moore, Nesbitt, Overman, Riskowski, and Warren. Motion

carried unanimously.

Adopt Operating Instruction #50-63, “Retired Law Enforcement Officer Firearms Qualification Standards”

Becker stated that Operating Instruction #50-63 was drafted as a result of the federal legislation HR 218 which allows retired law enforcement officers to carry firearms. The wording of the law is loose, vague and wordy. Allen Curtis met with the professional associations to discuss the ramifications of the law. The draft OI allows retired law enforcement officers who meet the qualifications of HR 218 to come to the Training Center on a monthly basis to take a state firearm qualification test. The retired officer must present a card stating his/her good standing and verifying that they qualify under HR 218 requirements. The firearms qualification is good for 1 year. There is no process in place to take the gun certification away before the next year’s qualifying date.

Curtis noted “good standing” is defined by the bill. The Commission had sought an attorney general’s opinion on several factors included in the law. He noted the professional associations had argued against the bill.

Brewster questioned whether the Commission would be exposed to liability issues based on the firearms qualification certification. He noted the state already has a concealed weapons law.

Warren noted the operating instruction would apply only to those seeking certification through the Training Center. He noted the Omaha Police Department had adopted a policy and they were also concerned over liability issues.

Arnold noted some issues would be avoided with the requirement that the officer must meet the retirement standard.

Curtis noted the law is a federal one and there is concern how situations would be handled when an officer moves from state to state.

Motion

A motion was made by Nesbitt and seconded by Moore to adopt Operating Instruction #50-63, “Retired Law Enforcement Officer Firearms Qualification Standards” as presented by

the Police Standards Advisory Council. Voting in favor of the motion: Arnold, Becker, Brueggemann, Clarke, Ford, Leseberg, Moore, Nesbitt, Overman, Riskowski, and Warren. Jacobs abstained. Brewster voted against the motion. Motion carried.

Approve Tuition for FY 05/06 as per Operating Instruction #50-21, "Training Center Tuition Requirement"

Becker reported an annual review of the tuition charge is required by OI #50-21. The Police Standards Advisory Council voted to maintain the current tuition charge of \$38 per day for tuition and \$15 per day lodging at the Nebraska Law Enforcement Training Center for FY 05/06.

Motion

A motion was made by Nesbitt and seconded by Moore to adopt the \$38 per day tuition and \$15 per day lodging for the Nebraska Law Enforcement Training Center for FY05/06. Voting in favor of the motion: Arnold, Becker, Brewster, Brueggemann, Clarke, Ford, Jacobs, Leseberg, Moore, Nesbitt, Overman, Riskowski and Warren. Motion carried unanimously.

Update on Justice Assistance Grant (JAG) Program

Nancy Steeves reported that Congress had combined the Local Law Enforcement Block grant program and the Edward Byrne Memorial Drug Grant program to form the Justice Assistance Grant program (JAG). The appropriation to this program is \$634 million. Of this total, \$100 million is earmarked for special programs. The remaining \$534 million includes 40% to be used for direct awards which are based on population and crime rate. If the direct award would be under \$10,000, the award is not given directly but added to the state award. The 60% directed to the state is to be subgranted out. Currently, there are no specific grant amounts nor grant guidelines.

It appears Nebraska's allotment would be about \$2.3 million which is \$1.4 million less than the amount received last year from the 2 grant programs. The \$2.3 million will apparently be split with 62% going to local programs and 38% to the state. This would equate to about \$800,000 to state programs and \$1.2 or 1.5 million for local programs. Last year local programs received \$2.1 million and the state programs received \$1.3 million. Steeves noted the program areas appear to be broad based and task forces would still be eligible for funds.

Steeves stated that the Task Forces have been contacted regarding these significant cuts in funding. Meetings with task force representatives and county attorneys will be held in March in North Platte and later in Lincoln to receive their input on how best to use the funds to address the state's priorities. She noted funds are usually announced in March with the awards taking place in July. The goal is to be able to select funding issues and be able to announce the availability of funds on schedule. Several issues will need to be resolved: 1.) Development of a strategic plan to focus the grant funds; 2) Determination as to whether a program receiving a federal direct award would also be eligible for a portion of the state

award. This is important in deciding how to fund the task forces.

Steeves reported the federal OMB has recommended elimination of the JAG, COPS, and VOCA grant programs for the 2006 budget. This is a result of their attempt to cut domestic spending.

Steeves noted Byrne funds are currently being used to fund 9 MULE task force officers for the State Patrol; CJIS projects at the Crime Commission; drug treatment programs for Corrections; the Drug Prosecution Unit of the Attorney Generals Office; and programs at the Training Center.

Moore noted in addition to the proposed cuts to domestic programs, the federal government is considering placing caps on spending which would further reduce funds available for programs.

Overman suggested the Commission work with Nebraska's senators and congressmen to help protect the funding for these programs.

Steeves agreed the Task Forces need to be proactive and contact their representatives. She agreed to prepare a memorandum of talking points to be distributed under Gary Lacey's signature for prosecuting attorneys. It was also suggested that Mike Heavican be included in the formation of a strategy.

Arnold expressed concern for the fight against the expansion of drug abuse if funding is reduced or eliminated. He noted from the stand point of homeland security, preventing the destruction of communities through drug activity is very important.

Clarke noted since the establishment of drug treatment programs at Corrections, the recidivism rate is 24% lower.

Moore agreed the problems created by Meth usage impact all facets of society. Linkages to child abuse, domestic violence, crime rates, etc. are well established. She noted people are the nation's infrastructure.

Steeves noted there are stringent state policy guidelines on the use of homeland security grant funds.

Members interested in helping the Commission form a strategy and work to maintain funding were asked to contact Nancy Steeves.

Award 2004 Local Law Enforcement Block Grant Funds (LLEBG)

Steeves noted last year Nebraska received \$160,000 - 170,000 in LLEBG grant funds which were divided among 190 applicants. This was a great program for smaller communities and it enabled many to purchase specific equipment needs. The 2004 award was only \$74,200. Staff met with the professional associations to determine how best to divide these funds. It was agreed to use the funds to support the equipment needs of the rural task forces and the State Patrol's Crime Lab. Each program would therefore receive \$9,275.00.

Motion

A motion was made by Arnold and seconded by Leseberg to award \$ 74,200 in 2004 LLEBG grant funds by distributing \$9,275 to each of the following programs:

- 04-LE-1100, City of Minden, "CANDO Task Force" (Compact for Apprehension of Narcotics Dealers and Offenders);*
- 04-LE-1101, City of North Platte, "C.O.D.E. Task Force";*
- 04-LE-1102, Nebraska State Patrol, "NE State Patrol Crime Laboratory";*
- 04-LE-1103, City of David City, "RAP Task Force" (Rural Apprehension Program);*
- 04-LE-1104, Scotts Bluff County, "W.I.N.G. Task Force" (Western Nebraska Intelligence and Narcotics Group);*
- 04-LE-1105, City of Fremont, "III Corps Task Force";*
- 04-LE-1106, City of Norfolk, "SNARE"; and*
- 04-LE-1107, City of Beatrice, "SEADE Task Force".*

Voting in favor of the motion: Arnold, Becker, Brewster, Brueggemann, Clarke, Ford, Jacobs, Leseberg, Moore, Nesbitt, Overman, Riskowski and Warren. Motion carried unanimously.

Project Safe Neighborhood Grants

Steeves reported money was not appropriated to the Project Safe Neighborhood (PSN) grant program in the President's budget. It does appear that money may be set aside for critical situations. In Nebraska, continued funding of the coordinator's position is a critical need.

The PSN Task Force approves grant requests and forwards their funding recommendations to the Crime Commission. With the award of the two grant requests on the agenda, all funds will be obligated with the exception of \$5,000 set aside for task force travel expenses.

Motion

A motion was made by Clarke and seconded by Leseberg to award Project Safe Neighborhood grant funds as follows: \$48,233 to grant #03-SN-8913, University of Nebraska (Juvenile Justice Institute), "PSN Evaluation Continuation" and \$ 33,596 to grant #03-SN-8914, City of Omaha, "Case Screener". Voting in favor of the motion: Arnold, Becker, Brewster, Brueggemann, Clarke, Ford, Jacobs, Leseberg, Moore, Nesbitt, Overman, Riskowski and Warren. Motion carried unanimously.

VI. OTHER BUSINESS

- Riskowski stated significant issues have been skirted by the Commission and suggested a meeting be held with Curtis and Clarke to determine if there are different actions the Commission could take to better serve law enforcement in the state. He questioned whether the Commission is dealing with government officials in the right way to get positive results.

Curtis noted he had been frank with the Commission over the years. He noted the goal to establish a legislative agenda for the Commission to support was attempted. However, since the Commission is so well represented by a cross section of criminal justice players with different perspectives, it was not possible to reach a consensus. As an example, legislation was introduced this session to provide funding for the Crime Victims Reparation program. At its hearing this week, there was no support from the Legislature to build a funding source for the program. This is a problem to be solved by the victim advocates, not the Commission.

Clarke stated in his tenure he had seen the Commission change for the better with connections being built among all criminal justice players. He noted the Executive Director reports to the Governor and is required to present the Governor's agenda.

The Commission discussed the possibility of changing the Commission's standing from a code agency to an agency whose director is appointed by the Governor but which is not under the Governor's control regarding decisions by the Commission. It was noted this would be a trade off between having the Governor's support and being free to pursue issues.

- The Commission discussed the appointment of a new executive director. Curtis reported that he had met with Governor Heineman and was told that the position is open. It has been announced that they are not taking applications at this time. It is anticipated it will take several months before an appointment is made.

Members discussed scheduling a meeting with the Governor to provide input on the selection of the executive director and to raise awareness of the strides the Commission has made. The following members volunteered to pursue a meeting with the Governor: Jim Riskowski, Harold Clarke, Kathy Moore, Charles Brewster, and Don Overman (participate by conference call). It was suggested that Jon Bruning also be asked to participate. Harold Clarke agreed to schedule an appointment with the Governor.

Curtis noted when trying to recruit interested parties, the lower salary level for this position is a limiting factor.

- Curtis noted the Crime Victims Reparation Program can continue to run on the very limited budget but it will not be able to provide adequate services to victims. If the program is to continue, the Commission will need to build support for the program with the Governor and the Legislature.
- Overton reported that Douglas County has agreed to MOU terms to post district court data on NCJIS. He is waiting for their signature.
- Curtis expressed his thanks to the Commission for their support and friendship over the last 11 years and said he was proud of the work the Commission had accomplished and of the partnerships formed with various portions of the criminal justice system.

ADJOURNMENT

There being no further business the meeting adjourned at 11:20 a.m. The next meeting of the Commission is scheduled for Friday, May 6, 2005, at 9:30 a.m. in Lower Level Conference Room A of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

Respectfully submitted,

Barbara McCreight
Administrative Assistant